Remarks

Claims 14, 18, 23, and 25-26 have been amended. Claim 24 has been cancelled. Claims 1-13 have been withdrawn. Thus, claims 14-23 and 25-30 are pending in the present application.

Election/Restrictions

The Applicant has elected to prosecute the claims relating to Group II without traverse. Group II comprises claims 14-23 and 25-30. Thus, claims 1-13 are being withdrawn without prejudice as a result of the restriction requirement.

Claims Rejections – 35 U.S.C. § 103

Claims 14, 18, and 23 have been amended to more accurately describe applicant's invention. Claim 24 has been cancelled.

Claims 14-30 have been rejected under 34 U.S.C. § 103(a) as being unpatentable over Walker *et al.*, U.S. Patent No. 5,779,549 ("Walker"), in view of Moody, U.S. Pub. No. 2002/0093136 ("Moody").

An obviousness rejection under §103 requires that all the limitations of a claim must be taught or suggested by the prior art. M.P.E.P. § 2143.03 (citing *In re Royka*, 490 F.2d 981, 985, 180 U.S.P.Q. 580, 583 (C.C.P.A. 1974)). A *prima facie* case of obviousness, *inter alia*, requires:

(i) a "suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings," and

(ii) that "the prior art reference[s] . . . must teach or suggest all the claim limitations."

See M.P.E.P. § 2143 (citing *In re Vaeck*, 947 F.2d 488, 493, 20 U.S.P.Q.2d 1438, 1442 (Fed. Cir. 1991)).

As stated in the Office Action, Walker discloses a system 100 for providing tournaments among players of games devices. There are a plurality of gaming devices 104,106 identified as personal computers. The game devices are adapted for communication over a network 108. The gaming devices communicate to at least one server 102, the server having access to databases

that store player information and information pertaining to a game tournament. *See, e.g.*, col. 5, lls. 32-40. As the Office Action states, Walker lacks "the ability for players to select awards from their personal computers via a web page."

Alternatively, Moody discloses a method for operating an individual gaming machine by a casino. *See* Moody at ¶¶ 3, 7, 11, 13, 15, 22-23, 29, 42, 53-56, *etc.* The gaming machines in Moody are stand-alone machines and are not linked with other machines. The gaming machines in Moody are wagering games found in a casino that are utilized by players to win cash or prize awards by wagering the player's currency. *See* Moody at ¶ 29. Therefore, the wagering games of Moody, along with their award structure, are governed by the laws and regulations associated with these types of wagering machines. One regulation for wagering machines requires that at least a specified percentage of a player's wager be returned over time. For example, certain regulations require that at least 90% of the players' wagers be awarded back to the players.

Claims 14 & 23

Neither Walker, Moody, nor the combination thereof discloses, teaches, or suggests the Applicant's claimed invention. Walker does not teach or suggest grouping the game devices into at least one collective award pool as specifically claimed by the Applicant in claims 14 and 23. Further, as the Office Action states, Walker does not disclose the ability to select awards via a web page as specifically claimed by the Applicant in claim 14. Additionally, Walker does not suggest grouping the game devices based on their locations as specifically claimed by the Applicant in claim 23.

These deficiencies are not overcome merely by attempting to combine the wagering games of Moody with Walker's amusement games. Moody in no way discloses, teaches, nor suggests grouping devices in any way. Moody particularly fails to describe: (1) grouping the devices based on their locations; or (2) grouping the devices into at least one collective award pool, as specifically claimed by the Applicant in claims 14 and 23.

Thus, the Applicants respectfully submit that a *prima facie* case of obviousness has not been made and that claims 14 and 23 are patentable over Walker in view of Moody under 35 U.S.C. § 103(a) for at least these reasons. Additionally, claims 15-22 and 25-30 are allowable as

depending from claims 14 and 23 respectively.

Claims 17-20

The Office Action attempts to combine Walker with Moody to render claims 17-20 obvious. With regard to these claims, any use of Moody is improper because Moody is directed to a wagering device rather than a gaming device. Claims 17-20 are directed to adjusting an award value based on performance or achievement. However, in wagering devices, the awards must be predetermined based on the regulation requiring that at least a specified percentage of a player's wager be returned over time. For example, in claim 20 the Applicant claims that the award levels are adjusted based upon the average level of player achievement in a tournament. Moody necessarily teaches against adjusting award values based on such criteria and as such, claims 17-20 are further allowable for at least this reason.

Claims 25-26

The Office Action also attempts to combine Walker with Moody to render claims 25-26 obvious. However, neither Walker nor Moody disclose, teach, or suggest awarding prizes based upon the accumulation of at least one statistic of all amusement game devices in the at least one collective pool, as specifically claimed by the Applicant in claim 25. Further, neither Walker nor Moody disclose, teach, or suggest that the at least one statistic be selected from a group consisting of total plays, total time of play, and total money input. Thus, claims 25-26 are further allowable for at least these reasons.

Conclusion

Thus, the Applicants respectfully submit that a *prima facie* case of obviousness has not been made and that claims 14-23 and 25-30 are patentable over Walker in view of Moody under 35 U.S.C. § 103(a) for at least the reasons discussed above.

If there are any matters which may be resolved or clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney at the number indicated. Should any additional fees be required (except for payment of the issue fee), the Commissioner is

authorized to deduct the fees from Jenkens & Gilchrist, P.C. Deposit Account No. 10-0447, Order No. 47089-00040. A duplicate copy of this Response is enclosed for that purpose.

Respectfully submitted,

Date: August 23, 2004

By_____

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